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6 *Attorneys for Complainant*

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:

Case No. 2010-634

12 **BETH ANN BAERTSCHI**  
13 **467 Pheasant Canyon Court**  
**Buellton, CA 93427**

**STATEMENT OF ISSUES**

14 **Registered Nurse License Applicant**

15 **Respondent.**

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about October 13, 2009, the Board of Registered Nursing, (Board) Department  
23 of Consumer Affairs received an application for a Registered Nurse License Applicant from Beth  
24 Ann Baertschi (Respondent). On or about October 1, 2009, Respondent certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Board denied the application on December 7, 2009.

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## JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

4. Section 480 states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

“(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

“The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

“(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

5. Section 2736 provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under

1 section 480 of that Code.

2 6. Section 2761 states:

3 "The board may take disciplinary action against a certified or licensed nurse or deny an  
4 application for a certificate or license for any of the following:

5 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

6 . . . .

7 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
8 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
9 conclusive evidence thereof."

10 7. Section 2762 states:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this  
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
13 chapter to do any of the following:

14 . . . .

15 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
16 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
17 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
18 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
19 ability to conduct with safety to the public the practice authorized by his or her license.

20 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
21 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
22 or the possession of, or falsification of a record pertaining to, the substances described in  
23 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
24 thereof."

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1                                   **FIRST CAUSE FOR DENIAL OF APPLICATION**

2                                   **(Conviction of a Substantially-Related Crime)**

3           8.     Respondent's application is subject to denial under section 480, subdivision (a)(1),  
4     2736, 2761, subdivisions (a) and (f), and 2762, subdivision (c), in that on or about January 04,  
5     2009, Respondent committed acts involving disorderly conduct while being intoxicated, that were  
6     substantially-related to the qualifications, functions or duties of a registered nurse. On or about  
7     January 27, 2009, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor  
8     count of violating Penal Code section 647, subdivision (f) [disorderly conduct], in the criminal  
9     proceeding entitled *The People of the State of California v. Beth Ann Baertschi* (Super. Ct. Santa  
10    Barbara County, 2009, No. 1292975). Respondent was sentenced to 2 days in Jail, placed on  
11    probation for three years, and fined. The circumstances surrounding the conviction are that on or  
12    about January 4, 2009, a Santa Barbara Police Officer, was called to the scene after a complaint  
13    of a an intoxicated female attempting to obtain her vehicle from a valet driver at a public parking  
14    structure with two minor children in the vehicle. Respondent had a strong odor of alcohol, red  
15    eyes, and was slurring her speech. Respondent was convicted of violating Penal Code section  
16    647, subdivision (f) [disorderly conduct].

17                                   **SECOND CAUSE FOR DENIAL OF APPLICATION**

18                                   **(Dangerous Use of Alcohol)**

19           9.     Respondent's application is subject to denial under section 2762, subdivision (b) and  
20    (c), in that Respondent used alcoholic beverages to an extent or in a manner dangerous or  
21    injurious to herself, and the public when she attempted to driver her vehicle while intoxicated  
22    with her two minor children in the vehicle. Complainant refers to, and by this reference  
23    incorporates, the allegations set forth above in paragraph 8, as though set forth fully.

24                                   **THIRD CAUSE FOR DENIAL OF APPLICATION**

25                                   **(Conviction Involving the Consumption of Alcohol)**

26           10.    Respondent's application is subject to denial under section 2762, subdivision (c), in  
27    that on or about January 27, 2009, Respondent was convicted of a crime involving the  
28    consumption of alcohol. Complainant refers to, and by this reference incorporates, the allegations

1 set forth above in paragraph 8, as though set forth fully.

2 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

3 **(Acts Warranting Denial of Licensure)**


4 11. Respondent's application is subject to denial under sections 480, subdivision (a)(3),  
5 2736, and 2761, subdivision (a), in that Respondent committed acts constituting grounds for  
6 denial of a registered nursing license when she was convicted of a crime involving the  
7 consumption of alcohol. Complainant refers to, and by this reference incorporates, the allegations  
8 set forth above in paragraph 8, as though set forth fully.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board issue a decision:

- 12 1. Denying the application of Respondent for a Registered Nurse License Applicant; and  
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: 6/10/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

18 LA2010600215  
19 statement of issues.rtf  
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